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Before the
Federal Communications Commission
Washington, D.C. 20554

JAN 24 1997

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In the Matter of)	
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Access Charge Reform)	CC Docket No. 96-262
)	
Price Cap Performance Review)	CC Docket No. 94-1
for Local Exchange Carriers)	
)	
Transport Rate Structure and Pricing)	CC Docket No. 91-213
)	
Usage of the Public Switched Network)	CC Docket No. 96-263
by Information Service and Internet)	
Access Providers)	
)	

COMMENTS OF THE
PUBLIC UTILITY COMMISSION OF TEXAS

Pat Wood, III, Chairman
Robert W. Gee, Commissioner
Judy Walsh, Commissioner

January 22, 1996

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Executive Summary

The Public Utility Commission of Texas (Texas PUC) herein provides its Comments to the Federal Communications Commission (FCC) on the issue of access charge reform. The Texas PUC has chosen to provide comments that can be divided into three major topics: rate structure modifications, the market-based versus prescriptive approach to access reform, and transition issues.

In Section II, Rate Structure Modifications, we offer observations and findings that we believe are pertinent to the rule changes proposed in the Notice. Our observations are based on extensive costing experience that we have attained in the work performed by the Texas PUC in implementation of its Long Run Incremental Cost rule, Substantive Rule §23.91, as well as in recent arbitration proceedings held by the Texas PUC pursuant to §252 of the Telecommunications Act of 1996.

Section III of these comments addresses the various approaches to access charge reform discussed in the Notice. The Texas PUC advocates a prescriptive approach to access reform, with a transition to the market-based approach in the long term. In general, although the Texas PUC strongly favors market-based solutions when possible, we are concerned that the market-based approach as outlined in the Notice is insufficient to eliminate implicit subsidies and bring about access rates based on economic cost as quickly as desired. We do not suggest, however, that the prescriptive approach, by itself, is the appropriate solution for the long run.

Section IV of these comments address transition issues relating to universal service and the treatment of any remaining embedded costs allocated to the interstate jurisdiction. The Texas PUC agrees with the notion that any access charge reform must be carefully reviewed along with universal service. We are concerned that the use of universal service funds to reduce interstate access charges has the potential to divert funds traditionally used to support intrastate high costs, and note that such a shift in jurisdictional support must only be accomplished through a recommendation of a federal-state joint board. The Texas PUC urges the Commission to proceed with the referral of all issues related to jurisdictional separations arising from the implementation of FTA96 to the "main" federal-state joint board in CC Docket No. 80-286. In the event that the FCC determines that all or a portion of the remaining embedded costs should be recovered, we recommend, in order to avoid the continuation of implicit subsidies, that the recovery be made through a separately earmarked fund.

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**COMMENTS OF THE
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I. Introduction

1. In its Notice of Proposed Rulemaking (Notice), Third Report and Order, and Notice of Inquiry adopted on December 23, 1996,¹ the Federal Communications Commission (FCC or Commission) initiated a rulemaking to consider and implement regulatory changes to reform its system of interstate access charges to make them compatible with the competitive framework of the federal Telecommunications Act of 1996 (FTA96)² and with state actions to open local exchange networks to competition. The Public Utility Commission of Texas (Texas PUC), having

¹ *In the Matter of Access Charge Reform*, CC Docket No. 96-262, *In the Matter of Price Cap Performance Review for Local Exchange Carriers*, CC Docket No. 94-1, *In the Matter of Transport Rate Structure and Pricing*, CC Docket No. 91-213, and *In the Matter of Usage of the Public Switched Network by Information Service and Internet Access Providers*, Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry, FCC 96-488 (December 23, 1996).

² Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (to be codified at 47 U.S.C. §§ 151 *et seq.*).

been given general regulatory authority over public utilities within our jurisdiction in Texas, hereby submits these Comments on access charge reform issues most directly related to state regulatory policy.

II. Rate Structure Modifications

2. The FCC tentatively concludes that several provisions in Part 69 of their rules compel incumbent LECs to impose charges for access services in a manner that does not accurately reflect the way those ILECs incur the costs of providing those services. For example, the costs associated with the local loop are generally non-traffic-sensitive (NTS), but the rules require incumbent LECs to recover a portion of those costs through per-minute CCL charges. Similarly, at least some portion of the costs of local switching is NTS, but the rules require incumbent LECs to recover all local switching costs through per-minute charges. In these and other cases, the rate structure rules do not send accurate pricing signals to customers, and consequently, encourage inefficient use of telecommunications services.³

3. The FCC proposes to revise their rate structure requirements for switched access service and have determined that establishing more economically rational rate structure rules is a necessary first step in the new procompetitive era. The FCC seeks through these changes to establish rate structures for interstate access services that send more accurate pricing signals to both consumers and competitors. The FCC invites comment on proposals for rate structure rule changes to be applicable to all price cap incumbent LECs. Specifically, the Notice invites comment on rate structure rule changes for common line, local switching, and transport; a number

³ Notice, ¶55.

of proposals for phasing out the transport interconnection charge; and on establishing rate structure rules for SS7 signaling services.⁴

4. The Texas PUC has gained extensive costing expertise through implementation of its Long Run Incremental Costing rule, Substantive Rule §23.91 (Texas costing rule or PUC Subst. R. §23.91)⁵, and through arbitration hearings held pursuant to §252 of the FTA96. In the following paragraphs we offer observations and findings that we believe are pertinent to the rate restructuring rule changes addressed in the Notice.

A. Common Line

5. Common line costs are the costs associated with the line connecting the end user's premises with the local switch that have been assigned to the interstate jurisdiction through the jurisdictional separations process. These costs are not traffic-sensitive. A portion of the incumbent LEC's common line costs are recovered through subscriber line charges (SLCs). These charges currently are limited to the actual cost of the interstate portion of the local loop or \$3.50 per month for residential and single line business users, and \$6.00 per month for multi-line business users. The remaining common line costs, if any, are recovered through carrier common line (CCL) charges, which are per-minute rates imposed on access customers.⁶

6. The current common line rate structure, in which only a portion of common line costs are recovered through flat monthly rates, does not reflect the manner in which loop costs are incurred. As a result, the common line rate structure forces incumbent LECs to recover costs in an economically inefficient manner, and so may cause inefficient use of the network and

⁴ Notice, ¶56.

⁵ Public Utility Commission of Texas, Substantive Rule 23.91, *Long Run Incremental Cost Methodology for LEC Services*, effective September 10, 1993. (Included herein as Attachment A.)

⁶ Notice, ¶57.

uneconomic bypass. The current CCL charge has been uniformly criticized by both incumbent LECs and IXC's because it discourages efficient use of the network and encourages uneconomic bypass.⁷

7. The Notice requests comment on alternative methods of recovery of both the CCL and SLC portions of subscriber loop costs. The Texas PUC favors adoption of a flat-rated recovery method for the CCL. In addition, the Texas PUC opposes increasing or eliminating the cap on SLCs, and is concerned with the administrative difficulties of having different charges assigned to primary and secondary lines. These positions are outlined in greater detail in the following paragraphs.

1. Carrier Common Line (CCL)

8. The FCC invited comment on six alternative methods for recovering common line costs.⁸ The Texas PUC supports the selection of an alternative method for recovering CCL costs because the current access rate structure, i.e. access rates applied on a minute-of-use basis, does not reflect the non-traffic sensitive nature of the local loop. If interstate access rates are restructured, the Texas PUC supports adoption of a flat-rated alternative for recovering costs associated with the common line. Specifically, the trunk port charge and line port charge alternative merits further evaluation.

9. In selecting an alternative rate structure, the Texas PUC recommends the FCC consider whether application of the rate structure is competitively neutral, i.e. fair and equitable, among access customers; whether the rate structure is applied to a customer base which includes all access customers and excludes end-user customers; whether application of the rate structure is

⁷ Notice, ¶58.

⁸ Notice, ¶¶59-63.

auditable; whether the rate structure avoids reliance upon self-reporting mechanisms for determining application of the rates; and whether the rate structure is administratively simple.

10. Of the six alternatives presented, our preliminary analysis indicates that trunk port charges and line port charge alternative⁹ appears to meet each listed consideration. The trunk port charge and line port charge rate structure is competitively neutral, is applied to the appropriate customer base, is auditable, avoids self-reporting and is administratively simple. The other five alternatives appear to have significant flaws, discussed below.

11. The two flat-rate per line alternatives¹⁰ are unappealing. The first flat-rate per line alternative, designed to be assessed against each retail customer's primary interexchange carrier (PIC), does not address situations in which no PIC is selected. The second flat-rate per line alternative, the same as the first alternative plus direct billing to retail customers in which no PIC is selected, is unappealing because it could result in direct billing of access customer costs to non-access customers and because it appears to be administratively cumbersome. Access customers may or may not pass common line costs through to end user customers in the form of higher prices. We prefer to continue to let the level of competition in the market determine whether common line costs are passed through rather than to recommend adoption of an access rate structure which assures that access costs are passed through to end user customers.

12. The bulk-billing alternative¹¹ is objectionable because it would likely rely upon percent interstate usage ratios (PIUs) reported by access customers, an area of past and continuing concern¹² where significant differences exist between interstate and intrastate access

⁹ Notice, ¶61.

¹⁰ Notice, ¶60.

¹¹ Notice, ¶61.

¹² The FCC and Texas PUC have expended significant resources over the last decade in various proceedings to investigate PIU reporting and to establish ways in which PIU accuracy might be improved.

rate levels. Any alternative that is reliant upon self-reporting by an access customer to determine the amount billed to the access customer should not be considered.

13. The capacity charge alternative and trunk port alternative¹³ are somewhat acceptable; however, the capacity charge alternative may exclude situations where trunks are procured from an alternative access provider not subject to the revised access rate structure. Thus, an access customer could obtain access from one source and trunks from another and not be assessed a charge for access. The trunk port charge alternative appears to exclude line side connections.

14. The Texas PUC notes, however, that because there was a limited description of the six alternatives for recovering common line costs in the Notice, we cannot wholeheartedly recommend adoption of a rate structure of port charges and line charges at this time. Instead, we offer the general recommendation that a flat-rate alternative be adopted.

2. Subscriber Line Charge (SLC)

15. The FCC seeks comment on its proposal to increase the cap on the SLC for the second and additional lines for residential customers, and for all lines for multi-line business customers, to the per-line loop costs assigned to the interstate jurisdiction.¹⁴ The Notice further requests comment on whether ILECs should be permitted or required to deaverage SLCs as a part of the baseline rate structure that would be imposed on all price-cap ILECs. The Texas PUC opposes a plan that would increase or eliminate the cap on the SLC, consistent with our many past objections to the imposition and increases in this charge since its inception. We continue to oppose the recovery of common line costs assigned to the interstate jurisdiction through the imposition of flat rate charges to captive subscribers who may or may not use interstate services.

¹³ Notice, ¶61.

¹⁴ Notice, ¶65.

16. Further, we reemphasize the concerns we expressed in the Universal Service proceeding¹⁵ regarding the administrative difficulty in applying one charge for the primary residential connection and a different charge for additional lines or for a location other than the principal residence. We believe the FCC's proposal to allow one SLC for the primary residential connection and a different charge for additional lines would unnecessarily create the same real possibility of consumer confusion and frustration as described on our previous comments.

17. The FCC seeks comment on the number of SLCs that should be applied to Integrated Services Digital Network (ISDN) services.¹⁶ As discussed in paragraph 69 of the Notice, this topic has been addressed previously in the Notice of Proposed Rulemaking in CC Docket No. 95-72, *In the Matter of End User Common Line Charges*. The Texas PUC maintains the position on which it filed comments in this previous FCC rulemaking, which is that SLCs should be charged based on a ratio of the average ILEC cost of providing a derived channel service, including line or trunk cards, to the average ILEC cost of providing an ordinary local loop or T-1 facility. A copy of the comments filed by the Texas PUC in CC Docket No. 95-72 are included as Attachment B to this document, and are hereby incorporated by reference.

B. Local Switching Costs

18. The local switch connects a call coming in on one line or trunk to another line or trunk connected to the switch. A local switch consists of line and trunk cards, and an analog or digital switching system. Line cards provide interfaces between subscriber lines and the switch. Trunk cards or "ports" provide interfaces between the switch and interoffice trunks. Because line cards, as well as trunk cards, are deployed within the central office, they are accounted for in the

¹⁵ *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Further Comments by the Public Utility Commission of Texas, December 12, 1996.

¹⁶ Notice, ¶70.

switching accounts of the Uniform System of Accounts (USOA). These costs are therefore included in the switching category for separations and cost allocation purposes. The central processing portion of the switch performs the routing function based on the telephone numbers dialed by the end user placing the call.¹⁷

19. The Texas PUC has gained extensive costing expertise through implementation of its Long Run Incremental Costing rule, Substantive Rule §23.91, and through arbitration hearings held pursuant to §252 of the FTA96. The following paragraphs describe the Texas PUC's observations regarding the appropriate costing structure for local switching.

20. Currently, Section 69.106 of the FCC rules requires incumbent LECs to charge per-minute rates for local switching. The FCC asks for comment on establishing a flat-rate element for non-traffic sensitive (NTS) local switching.¹⁸ Certain parts of the switch, most notably the switch line ports, are generally dedicated to one particular customer. Because of this dedication, there is no loss of available line port capacity to other users when a customer is using the port. This usage does not tie up capacity otherwise usable by other customers. Therefore, the cost of the port should be recovered on a flat-rate, rather than on a usage-sensitive basis.¹⁹ The Texas PUC has considered flat rates for such NTS switch equipment in cases conducted pursuant to both the state's Public Utility Regulatory Act of 1995 (PURA95) and the FTA96. In Texas

¹⁷ Notice, ¶72.

¹⁸ Notice, ¶72. The term "local switching" is used in this report to coincide with the FCC's use of the same term. However, in the numerous cost studies analyzed for the Texas PUC's Substantive Rule 23.91 and the FTA96 §252 arbitrations, it has become apparent that the functions and costs of switching local calls are the same as those of switching non-local calls (on a per-switch basis).

¹⁹ The method used by the Texas PUC to determine the switch port (line card) costs has been rather simple, as the LRIC studies filed by ILECs in Texas are detailed enough to allow analysis of different parts of a switch to determine which parts are NTS and which are not. In cost studies filed pursuant to PUC Substantive Rule (Subst. R.) 23.91, ILECs have used Bellcore's Switching Cost Information System (SCIS) to develop capacity costs for different switch functions using vendor pricing information and engineering parameters. In most cases the switch port costs are the only volume-sensitive costs that are considered NTS in the cost studies performed for Texas.

PUC Docket No. 14943,²⁰ the Texas PUC staff argued that the costs for switch line ports used for interim number portability (INP) should be recovered on a flat-rate, not a usage-sensitive, basis.²¹ In addition, in the Texas arbitration dockets²² recently held to comply with §252 of FTA96, the Texas PUC approved flat-rated switch line port rates for both analog and ISDN switch line ports. The Texas PUC believes that flat-rated charges are most appropriate for pricing dedicated equipment such as switch line ports.

21. The FCC asks for comment on the appropriate rate structure for the switch, including whether a combination of flat-rate and usage-sensitive charges may best reflect cost causation principles.²³ The Texas PUC believes that, to the extent possible, rates should be set to reflect the manner in which costs are incurred so that appropriate price signals are sent to access customers. Accurate price signals are necessary to ensure the most efficient utilization of the network.

²⁰ *Application of GTE Southwest, Inc. to Provide Interim Measures for Telecommunications Number Portability Pursuant to P.U.R.A. 1995, Section 3.455.*

²¹ Although the administrative law judge (ALJ) agreed with the Texas PUC staff that switch line port costs should be recovered on a flat-rate basis, there were other issues concerning cost recovery that caused the Texas PUC to remand the case to the ALJ for further hearing. The Texas PUC never approved the rate structure in this case, and the remand schedule for Docket No. 14943 has not been set.

²² The term "arbitration dockets" in this context refers to five dockets involving petitioners seeking arbitration with the same ILEC. Arguments for all five dockets were heard by the Texas PUC at the same time. These arbitration dockets include Docket 16189, *Petition of MFS Communications Company, Inc. for Arbitration of Pricing of Unbundled Loops Agreement Between MFS Communications Company Inc. and Southwestern Bell Telephone Company*; Docket 16196, *Petition of Teleport Communications Group, Inc. for Arbitration to Establish an Interconnection Agreement Between Teleport Communications Group, Inc. and Southwestern Bell Telephone Company*; Docket 16226, *Application of AT&T Communications of the Southwest, Inc. for Compulsory Arbitration to Establish an Interconnection Agreement Between AT&T and Southwestern Bell Telephone Company*; Docket 16285, *Petition of MCI Telecommunication Corporation and Its Affiliate MCIMetro Access Transmission Services, Inc., for Arbitration and Request for Mediation Under the Federal Telecommunications Act of 1996 of Unresolved Interconnection Issues with Southwestern Bell Telephone Company*; and Docket 16290, *Petition of American Communications Services, Inc. and Its Local Exchange Operating Subsidiaries for Arbitration with Southwestern Bell Telephone Company Pursuant to the Telecommunications Act of 1996.*

²³ Notice, ¶73.

22. In the Texas arbitration dockets, the rate structure for switches recently has been divided into two elements: an NTS element and a traffic-sensitive (TS) element. As mentioned above, the NTS element generally relates to the switch line port, while the TS element relates to parts of the switch such as the central processor and the trunk ports. However, the TS portions of the switch have been treated differently in cases considered by the Texas PUC. In the LRIC studies performed pursuant to PUC Subst. R. §23.91, ILECs are required to separate the costs of local switching from the costs of different switch features (e.g., custom calling features). In such cost studies, local switching costs were developed and reported on a usage-sensitive basis (e.g., per minute), but the costs for most of the TS features were developed assuming an average usage level and reported on a flat-rate (per month) basis. In cases such as Texas PUC Docket Nos. 15042²⁴ and 14943, ILECs attempted to use the per-minute local switching costs developed in their PUC Subst. R. §23.91 LRIC-type studies to develop flat-rate local switching costs. In some cases, these flat-rates were merged with other LRIC-based flat rates to derive a monthly flat rate for a service. These attempts were met with varying degrees of resistance, but a few were approved by the Texas PUC (e.g., in Docket No. 14943). In the arbitration dockets, the Texas PUC approved local switching rates that encompassed the whole switch matrix (processor), largely due to the fact that neither the ILEC nor most of the petitioners believed it necessary, possible, or desirable to separate the costs of the local switching function from the costs of other usage-sensitive switch features. Thus, from a service-based perspective it makes sense to separate out the individual features provided by the switch as different functions and/or services with separate costs. From an element-based perspective, it is more appropriate to cost the switch as a single unbundled element.

²⁴ *Application to Revise General Exchange Tariff to Incorporate All CentraNet and Integrated Services Digital Network (ISDN) Services Pursuant to Subst. R. 23.69.*

23. There has been much controversy in Texas regarding the treatment of shared switch facilities in the Subst. R. §23.91 LRIC studies and in cases using similar studies. Both ILECs (Southwestern Bell Telephone Company, or SWBT, and General Telephone of the Southwest, or GTE-SW) filing cost studies pursuant to the Texas costing rule have, using different methodologies, tried to allocate portions of excess²⁵ TS switch costs to units of output, thereby calculating costs that are closer to average costs rather than capacity costs. In cases considered by the Texas PUC in which Subst. R. §23.91 has been the standard (such as Docket No. 14943), the Texas PUC has rejected the ILECs' arguments for allocation of the excess capacity costs to units of output. Texas PUC staff has taken the position (in such proceedings as Project No. 14918²⁶) that the majority of the shared switch costs (e.g., the excess capacity portions) are not incremental to any particular switching function or service and should be considered group costs common to switching. Using the Texas Subst. R. §23.91 LRIC methodology, the excess capacity costs that the ILECs associate with the TS portion of the switch should not be considered traffic-sensitive as the lump of unused capacity would not vary by usage.

24. Through the cost studies filed in Texas pursuant to Subst. R. §23.91, it has become apparent that the costs of what the FCC refers to as the "shared" portion of the switch central processor²⁷ are caused by usage rather than actual numbers of dedicated lines or trunks. While growth in the numbers of dedicated lines or trunks generally does cause the switch central

²⁵ In this document, the term "excess capacity" is used when referring to capacity (over and above that needed to serve current demand) that is incurred due to the modularity or "lumpiness" of the investment required in switching equipment. The term "spare capacity" will be used to designate capacity (over and above that needed to serve current demand) that is necessary in providing the maintenance or technical backup associated with providing a function or service. Allowance for spare capacity may be reflected in the use of an objective or engineering fill factor, whereas allowance for excess capacity may be reflected in a lower fill factor reflecting average or actual usage.

²⁶ *Southwestern Bell Telephone Company's Application for Approval of Automatic Number Identification, Coin Central Office Equipment, et al., Pursuant to P.U.C. Subst. R. §23.91.*

²⁷ Notice, ¶73.

processor to grow, it is the use of these lines and trunks and what they are used for that cause cost in the central processor. For example, GTE-SW believes that ISDN usage is much higher on a per-line basis than regular POTS usage because a customer with an ISDN line may tie up switch capacity for a much longer time when transporting data than would multiple customers with POTS lines. Therefore, the cost in the used (e.g., not excess) part of the switch central processor is usage-sensitive.

25. However, in the arbitration dockets, the Texas PUC used the TELRIC standard, which treats the excess capacity in a different manner. Because the TELRIC standard allows the use of lower utilization factors than the Texas TSLRIC standard, more of the TS switch portions were considered to be TS and were included in the usage-sensitive (per-minute) local switching costs and rates. Thus, whether or not the switch processor and trunk port excess capacity can be considered TS or NTS depends upon the version of LRIC one is using to develop costs. Using a TELRIC methodology, the cost of excess switch capacity would be allocated directly to units of output, and therefore would be TS. Using a TSLRIC methodology, the cost of excess switch capacity would be a group cost common to switching and would therefore be NTS.

26. The FCC asks for comment on which rate structure is appropriate for the TS portions of the switch as used for local switching.²⁸ The switch usage cost studies (which include costs for local switching, but not switch features such as custom calling features) that large Texas ILECs file pursuant to Subst. R. §23.91 must be performed using certain cost drivers specified by the rule. Unless a waiver is granted, such cost studies must be performed showing how switching costs vary by time of day, wire center size (number of working lines) and wire center density

²⁸ Notice, ¶74.

(number of working lines per square mile). Although the costs developed and reported by these studies vary by time of day (rate period) and wire center size, this structure has yet to be applied to any rates.²⁹ In the arbitration dockets, the Texas PUC decided to defer the deaveraging of local switching rates by wire center size until universal service had been reformed. The Texas PUC believes it is premature to set any deaveraged rates until it is apparent how high-cost customer subsidization mechanisms are going to operate.

27. The FCC invites comment on whether or not call setup charges should be developed for usage-sensitive switching.³⁰ While the Texas costing rule does not require switch usage costs to be developed separately for call setup and call duration functions, both ILECs filing switch usage LRIC studies pursuant to this rule have performed such studies, and Texas PUC staff found this division appropriate (although the studies have not yet received final approval). The results of these LRIC studies have not yet been used in studies filed in cases before the Texas PUC. However, in the arbitration dockets, the local switching TELRIC-based rates were not divided into call setup and call duration elements, and this decision met with approval by the both the ILEC and the petitioners. In effect, the costs of the call setup functions of the switch were averaged with the costs of the call duration functions of the switch, and this approach is one appropriate methodology in calculating LRIC-based rates.

28. Should call setup charges be allowed as local switching rates, the Texas PUC believes that charges ideally would be applied to all call attempts (completed and not completed)

²⁹ It should be noted that if the local switching rate were to vary by time of day, the rate structure should be kept simple so customers (whether they be end users or IXC's) can more easily understand when rates are higher or lower. In the LRIC studies filed pursuant to Subst. R. 23.91, the ILECs each used only three rate periods (8 AM to 5 PM, 5 PM to 11 PM, and 11 PM to 8 AM) to develop and report local switching costs. A rate structure based on fewer rate periods would be easier to understand.

³⁰ Notice, ¶76.

that cause cost to the ILEC. However, there may be considerations of what constitutes an incomplete call attempt,³¹ measuring the number of incomplete attempts and determining the identity of the end user who made the attempt. Such considerations may make it too burdensome to charge for incompleting attempts. In addition, the Texas PUC believes that the costs (including consumer confusion) associated with beginning to bill for incomplete call attempts outweigh any efficiencies gained from the more appropriate pricing signals.

C. Transport

29. Transport service is the component of interstate switched access service corresponding to the transmission and switching of traffic between incumbent LEC end offices and IXC POPs. Part 69 of the FCC's rules requires incumbent LECs to develop charges for transport service that may not reflect in some cases the manner in which they incur the costs of providing these services.³² Transport services include entrance facilities, direct-trunked transport services, and tandem-switched transport services.

30. In addition to providing insight about the appropriate costing structure for local switching, the Texas PUC's LRIC analyses and arbitrations have provided information regarding the appropriate transport cost structure. We outline in the following paragraphs the Texas PUC's observations regarding the various proposals for an alternative transport costing structure.

³¹ There are many ways in which one could define an incomplete call attempt. For instance, an incomplete call attempt may occur when the phone on the originating end is off-hook only temporarily, with no dialing taking place. On the other hand, an incomplete call attempt may occur when a telephone number is only partially dialed. Another example of a possible incomplete call attempt is when the originating end user hears the busy signal or ring, but the party on the other end does not pick up. Each of these scenarios cause the usage of switch capacity, but parties may differ over whether or not each one is actually a call attempt.

³² Notice, ¶80.

1. Entrance Facilities and Direct-Trunked Transport Services

31. Under current FCC rules, incumbent LECs are required to establish flat rates for: (1) "entrance facilities," transport service from the IXC POP to the SWC, and (2) "direct-trunked transport," transport service from a SWC to an end office on dedicated facilities without switching at a tandem switch.³³ The FCC seeks comment on its tentative conclusion that rates for entrance facilities and direct-trunked transport service should be flat- rated because these transport facilities are dedicated to individual customers.³⁴ The same argument made for the charging a flat rate for the switch line port can be made for charging a flat rate for dedicated transport facilities. In the LRIC studies filed in Texas pursuant to Subst. R. §23.91, the dedicated transport termination and outside plant (OSP) costs have been developed and reported on flat-rate bases, and some of these studies have been approved by Texas PUC hearings examiners. While none of these costs have been used to develop rates in any contested case ruled upon by the Texas PUC, for consistency purposes, all dedicated facilities should be priced on a flat-rate basis. Therefore, the Texas PUC agrees with the FCC's tentative conclusion and does not recommend any changes in the rate structure adopted in the interim rules for entrance facilities and direct-trunked transport service. The Texas PUC Subst. R §23.23(d), relating to the restructure of intrastate switched transport services, requires that flat rated charges should be assessed on access customers for the use of entrance facilities and direct-trunked transport facilities.

2. Tandem-Switched Transport Services

32. Further, current FCC rules require incumbent LECs to establish usage-based charges for "tandem-switched transport," a transport service from the SWC to the end office that

³³ Notice, ¶81.

³⁴ Notice, ¶86.

provides switching at a tandem switch. The tandem-switched transport service charge includes an interoffice transmission charge, and a charge for the tandem switch.³⁵ The FCC seeks comment as to whether the rate structure of tandem switching should include flat-rate or usage-sensitive components.³⁶ As mentioned above, in the Basic Network Function (BNF) LRIC studies filed pursuant to Subst. R. §23.91, tandem switching costs have, for the most part, been considered usage-sensitive. In the arbitration dockets, the Texas PUC approved usage-sensitive (per-minute) tandem switching rates.

33. The FCC seeks comment on the recovery of tandem switching costs from dedicated transport rates.³⁷ The LRIC studies filed in Texas by the ILECs for dedicated transport service do not account for any tandem switching. Rather, tandem switching costs should be paid for separately (and on a usage-sensitive basis) from the flat-rated dedicated transport service.

34. Regarding the FCC's request for comment on pricing tandem switching at peak or off-peak periods³⁸, it should again be noted that while the Texas PUC's Subst. R. §23.91 requires ILECs to consider time of day as a cost driver in developing and reporting tandem switching costs, a rate structure for tandem switching based on time of day usage has not been approved by the Texas PUC. Such a rate structure was considered in the arbitration dockets, but neither the ILEC nor the petitioners believed it to be necessary. However, the Texas PUC is not opposed to permitting peak and off-peak pricing to ensure the most efficient use of the tandem-facilities. To the extent larger IXCs use tandem facilities to handle overflow traffic during peak hours, peak and

³⁵ Notice, ¶81.

³⁶ Notice, ¶89.

³⁷ Notice, ¶90.

³⁸ Notice, ¶90.

off-peak pricing will allow ILECs to recover at least a portion of the costs related to increased tandem switching capacity from the larger IXC.

35. The FCC invites discussion on the merits of the two pricing alternatives³⁹ for purchase of interstate tandem-switched transport service that are currently offered as a choice to IXCs.⁴⁰ IXCs can choose to pay a single-usage sensitive charge, with distance measured in terms of the airline mileage from the serving wire center (SWC) to the end office, where applicable. In the alternative, IXCs may pay a flat-rated charge for a dedicated facility from the SWC to the tandem office, and a usage-sensitive charge for tandem-switched transport service from the tandem office to the end office, with mileage computed separately for the two segments. The Texas PUC in Subst. Rule §23.23(d) offered the two pricing options identified in the Notice to intrastate access customers. Because ILECs have complete control over the placement and location of tandems in their networks, the Texas PUC determined that in the absence of effective competition for tandem-switched services, the purchasers of tandem switched transport service would be disadvantaged if the second pricing alternative was the only option available. The Texas PUC agrees with the FCC's observation that purchasers of tandem-switched transport service are predominantly small IXCs and larger IXCs are more likely to use direct-trunked switched transport.⁴¹ Therefore, it is important that any changes in access rate structure do not disadvantage a particular class of access customers, namely smaller IXCs, because it may have a detrimental effect on fostering robust competition in the interexchange market. The Texas PUC supports the continued availability of the two pricing alternatives for tandem switched transport during the period in which the prescriptive approach is in effect (discussed later). When the

³⁹ Notice, ¶87.

⁴⁰ Notice, ¶91.

⁴¹ Notice, ¶90.

market for tandem-switched transport is determined to be competitive, the ILECs should be granted greater flexibility with respect to rate structure and rate levels for access services.

36. The FCC asks for identification of the costs appropriately associated with the tandem switching function.⁴² The cost drivers required to be used in the BNF LRIC studies filed pursuant to the Texas costing rule (wire center size, distance, and time of day) imply that there are at least two types of costs associated with tandem switching: switch usage and common transport (or switched transport). In fact, the required cost drivers for tandem switching are the same as those for switched transport facilities and terminations. However, in the tandem-switching BNF LRIC studies it filed pursuant to Subst. R. §23.91, GTE-SW did not agree that tandem switching involves common transport functions. PUC staff believes that the company did not support this contention well and, in addition, the company did not ask for a waiver of the distance cost driver requirement. Texas PUC staff recommended that the ILEC consider distance as a cost driver in developing and reporting tandem switching costs. However, this recommendation has not yet been ruled upon by a Texas PUC hearings examiner or by the Texas PUC itself.

37. In the arbitration dockets, the Texas PUC approved, in the interim, one TELRIC-based tandem rate that did not vary by time of day, transport distance, or wire center size. Both the ILEC and the petitioners stated that accounting for wire center size in tandem switching costs would be difficult due to the fact that it is not the tandem switch's wire center that is the real cost driver. At least one petitioner stated that it is the size of the wire centers that the tandem switch serves that is a more significant cost driver. Because a tandem switch may serve many different wire centers of different sizes, it would be difficult to develop a rate structure based on the wire

⁴² Notice, ¶92.

centers a tandem serves. Neither the ILEC nor the petitioners believed that a wire-center-size or time-of-day-based rate structure was necessary for tandem switching, and the Texas PUC agrees with this viewpoint.

38. The FCC seeks comment on whether there is a need to revise the current rate relationship between tandem-switched transport rates and DS3 and DS1 rates.⁴³ The Texas PUC, in adopting Subst. R. §23.23(d), recognized the need for establishing rate relationships between the various transport options to prevent the ILECs from engaging in discriminatory pricing between the various transport options while, at the same time, affording the ILECs with some degree of pricing flexibility in the face of increased competition for certain transport options. The Texas PUC therefore did not impose a price ceiling on the DS3 direct trunked transport whose price will be determined by competitive forces in the marketplace. The ILEC's DS3 rates are required to be used as a baseline for developing rates for DS1, DS0, and tandem-switched transport options since it reflects the forward looking technology (fiber) assumed in incremental cost studies upon which the rates would be based and also because competitors in the switched access market are likely to target the transport option (DS3) used by large access customers. Substantive rule 23.23(d) requires that the difference between the rates and 105% of the LRICs for DS0 direct trunked, DS1 direct trunked and tandem-switched options not exceed 150% of the difference between the rate and 105% of the LRIC of the DS3 direct trunked transport option, on an equivalent unit of capacity basis.

⁴³ Notice, ¶94.

D. Transport Interconnection Charge (TIC)

39. The Modification of Final Judgment required, until September 1, 1991, that charges for the transport of switched access traffic of the same type between end offices and facilities of IXC's shall be equal, per unit of traffic delivered or received, for all IXC's (known as the "equal charge rule"). In its Order released on October 16, 1992, the FCC adopted an interim rate structure which consisted of a flat-rated entrance facilities and direct-trunked charge, a usage-based tandem-switched transport charge. The interim rate structure also established a transitional make-whole revenue element, namely, the transport interconnection charge (TIC) that initially recovered the difference between the revenues from the new facility-based rates under the restructure and the revenues that would have been realized under the pre-existing "equal charge rule". The TIC is a per-minute charge assessed on all switched access minutes, including those of competitors that interconnect with the ILEC's switched access network through expanded interconnection.

40. The amount of revenue produced by the TIC relative to the revenue generated by other transport elements leaves little doubt that a serious pricing distortion exists. The TIC is founded on a "make-whole" revenue calculation that cannot be sustained in view of competitive pressures, and represents precisely the type of implicit subsidy mechanism that must be eliminated according to FTA96. The Notice offers four major approaches to resolving the TIC dilemma: allowing the ILECs significant pricing flexibility to address the problem; extensively revising the TIC through the use of detailed cost analysis; a combination of the first two approaches where some costs would be reassigned and others would be phased out; and phasing out all of the TIC costs.⁴⁴ The Texas PUC lacks the data and analytical support to offer a detailed solution to the

⁴⁴ Notice, ¶¶112-118.

FCC on this difficult issue. In general, however, the Texas PUC would support a plan resembling the FCC's third option, in which costs would be reassigned to transport facility elements based on TELRIC plus a reasonable allocation of forward looking common costs. The costs associated with the remaining revenue shortfall, currently recovered through the TIC, would be shifted to a specifically identified account to be recovered on a competitively-neutral basis and phased out over a reasonable period of time. The FCC may wish to consider recognition of any increased levels of universal service support in a reduction of the TIC amount that is earmarked to be phased out.

E. SS7 Signaling

41. SS7 is the international standard network protocol currently used to transmit signaling information over common channel signaling (CCS) networks. The following paragraphs offer the Texas PUC's observations regarding the portion of the Notice relating to proposed changes in the SS7 signaling rate structure.

42. The FCC requests comments on Ameritech's rate structure for pieces of the SS7 signaling network.⁴⁵ In Texas, ILECs did not file BNF LRIC studies for individual signaling functions. Instead, BNF LRIC studies for switching functions (such as CLASS BNFs) were performed. These BNF LRIC studies used the results of cost studies which capacity costed portions of the SS7 network (signaling links, STP ports, etc.). Some of these studies have been approved by Texas PUC hearings examiners.

⁴⁵ Notice, ¶127.

43. In the Texas arbitration dockets, FCC standards in the Local Competition First Report and Order⁴⁶ required separation of the signaling network from the switching network. The Texas PUC approved interim rates that are similar to Ameritech's signaling system rate structure. STP port (node) rates were approved on a per-port-per-month basis, rather than on the per-message basis that some petitioners desired. However, the approved interim rates for signaling links were usage-sensitive (per-octet-per-STP-pair). Dedicated signaling links, for the same reasons as dedicated transport or dedicated switch line ports, were approved as flat rates. Costs of processing or switching signaling information at the end office or tandem level were included in the local switching costs on a usage-sensitive basis. When costing elements of the ILEC network rather than services that may or may not use signaling functions, the rate structure approved by the Texas PUC in the arbitration dockets is the most appropriate.

III. Approach to Access Rate Reform and Deregulation

44. In sections IV through VI of the Notice, the FCC outlines two alternative approaches to access reform: a market-based approach and a more prescriptive approach, and the FCC requests comment on numerous aspects relating to both approaches.

45. Under the market-based approach, the FCC proposes letting marketplace pressure move interstate access prices to competitive levels. This approach could be implemented incrementally, first eliminating certain regulatory constraints as incumbent price cap LECs demonstrate through credible, verifiable evidence that the conditions necessary for efficient local competition to develop in their service areas exist. Then, as incumbent LECs show that competition has emerged, additional regulatory constraints, including mandatory rate structures,

⁴⁶ CC Docket No. 96-98, *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, FCC 96-325, §51.319.